IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4627 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SHARADKUMAR R.RAO

Versus

STATE OF STATE

Appearance:

1. Criminal Misc.Application No. 4627 of 2001

MR KJ SHETHNA for Petitioner No. 1

MR JB THAKKAR for Petitioner No. 1

Mr S J Dave, APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 04/07/2001

ORAL JUDGEMENT

Rule. Mr S J Dave, learned APP waives service of Rule for the respondent. By consent of the learned Advocates for the parties, this matter is heard and disposed of.

2. This is an application filed by the petitioner above-named for enlargement on bail under section 4439 of the Code of Criminal Procedure, 1973 in connection with C.R.No.I.662/2000 before the Satellite Police Station for offences punishable under sections 406, 420, 467 etc. of IPC. It has been mainly contended that Mahesh D Pande, in his FIR dated. 21.11.2000 hat on 10.2.1998 one Minar Parekh of Ahmedabad had opened a S.B. account being No.535 and had become a customer of the bank. It is also alleged that the said Minar Parekh was a Chartered Accountant and, therefore, relationship was developed between the bank and the said Minar. The informant is incidently, the Manager of State Bank of Saurashtra. The informant has further contended that the said Minar proposed to take a loan on his house. Therefore, the informant had told him that if the titles would be clear, the loan would be sanctioned. That thereafter, Minar has again approached the informant and he had given some details about his proposal. Ultimately it is noticed that everything was fake and the bank was cheated with the help of other accused persons. The petitioner above named is one of those found to be accused persons in connection with the said offence. Therefore, it is the allegation of the informant that the petitioner also was a part and parcel of the said criminal conspiracy of cheating the bank. Therefore, the said offences have been registered even against the petitioner and the petitioner has contended that he is innocent and he has also filed a complaint before the learned JMFC, Ahmedabad (Rural) being Criminal Enquiry No.50/2000. That the said matter has been sent for enquiry under section 202 of the Code of Criminal Procedure by the learned Magistrate and the investigation there is pending. During the course of the argument, learned APP Mr S J Dave has contended that the petitioner has been recently arrested in the month of June, that the main accused Minar and one another accused are still not apprehended and, therefore, the present petitioner may not be released on bail. At the same time, it is a matter of record that the petitioner was taken on remand and even the remand period has also been over and, therefore, the petitioner is in judicial custody. It is not the case of the prosecution that the petitioner is required to be further interrogated. Even if the I.O. desires to interrogate the petitioner, the petitioner can be called upon at any point of time by the I.O. for the purpose of interrogation. It is also contended that there is a matter of criminal conspiracy and therefore, all persons party to the conspiracy would stand in the same footing as the main accused person stand.

3. Let us take it that the present petitioner and other main accused person stand in the same footing then also it is not found as to why the petitioner should not be released on bail. The main contention is that the offence punishable with imprisonment for life. Even in such offences, this court is not deprived of jurisdiction to enlarge the accused person on bail. As against it would be relevant to consider the decision of Bombay High Court in case of Keshav Vasudeo v. Emperor, reported in AIR 1933 Bombay, 492. There also the principles of bail has been explained and discussed and ultimately it was found that the applicant be admitted to bail on the same terms as before.

4. In the facts and circumstances of the case, I do no find any impediment in granting bail to the present petitioner. In that view of the matter, this application is allowed. The petitioner is ordered to be released on bail in connection with C.R. No.662/2000 of Satellite Police Station on his furnishing solvent security and P.R. of Rs.30,000/- ((Rs. Thirty thousand only) with one surety of the like amount to the satisfaction of the learned CJM, Ahmedabad (Rural) on following conditions:

CONDITIONS:

(1) The petitioner shall make available for interrogation by a police officer as and when required

(2) The petitioner/petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(3) The petitioner shall not leave Gujarat State without the prior permission of the Court;

(4) On every 1st date and 15th date of English Calendar month during the period from 10 am to 5 p.m. each petitioner shall appear before PSO of Satellite police station, and shall mark his presence for which the learned CJM, Ahmedabad (Rural) shall write a Yadi directing PSO of Satellite police station to keep and maintain a written record for such presence marked by the petitioner;

(5) The petitioner shall furnish his true and correct

complete address of his residence as well as the work place where he will stay for the period from date of his release on bail to date of conclusion of trial of the case, both to the I.O. and learned CJM, Ahmedabad (Rural) supported with affidavit;

(6) In case of any change in his address he shall immediately inform the learned CJM, Ahmedabad (Rural) bout such change in address of residence;

(7) The petitioner shall surrender his passport to PSO of Satellite police station, if any.

(8) The petitioner shall not leave Amedabad City and Ahmedabad (Rural) District without prior permission of learned CJM, Ahmedabad (Rural).

The learned CJM, Ahmedabad (Rural) shall examine and check all the documents which may be produced by a person who wants to stand as surety for petitioner/s for his satisfaction as to whether that person is in fact solvent or not and thereafter, it will be his judicial discretion that he may accept or refuse that person as surety for the petitioner.

Bail bonds be executed before the learned CJM, Ahmedabad (Rural).

If any one or more conditions are reported to have been breached by the petitioner the learned CJM, Ahmedabad (Rural), shall be at liberty to issue non-bailable warrant against the petitioner.

Rule is made absolute accordingly. D.S. is permitted.

Date:4.7.2001 [D P Buch, J.]
msp